S.B.Civil Writ Petition No.7101/2003

Daya Shanker Vora vs. State of Raj. and another.

Date : 2.7.2007

HON'BLE MR. PRAKASH TATIA, J.

Mr.T Joshi, for the petitioner.
Mr.Y Mehta, for the respondent.

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Heard learned counsel for the parties.

Learned counsel for the respondent submitted that the only relief claimed in this writ petition no.7101/2003 is that the respondent Municipal Board, Mount Abu be directed to grant permission to the petitioner to carry out repair work as per his application. According to the respondent Board, the said permission was refused by order dated 22.2.2006 and the said order has been challenged by the petitioner by filing another writ petition no.1129/2006, therefore, this writ petition no.7101/2003 has become infructuous.

Learned counsel for the petitioner submits that the petitioner was entitled to carry out the repair

works but the Municipal Board did not grant permission, therefore, the petitioner has filed another writ petition no.1129/2006. It is submitted that the petitioner's right to carry out the repair work is his right under law and he could even execute his that work. It is submitted that the reasons given in the order dated 22.2.2006 are absolutely irrelevant and on those grounds, the petitioner could not have been denied any permission for carrying out the repair work and, therefore, the writ petition has not become infructuous.

It is clear from the writ petition no.7101/2003 itself that the only relief of the petitioner is that the respondent Board be directed to grant permission to the petitioner to carry out his repair work as per his application dated 21.6.2002 and he also submitted that for carrying out the repair work, no permission is required under the provisions of Rajasthan Municipalities Act.

The petitioner's all above grounds can well be agitated in writ petition no.1129/2006 because the petitioner's contention in writ petition no.7101/2003 that for repair work, there is no need to get permission, therefore, that can be foundation to challenge the order dated 22.2.2006. Therefore, there is no reason to keep the earlier filed writ petition

no.7101/2003 pending because of the subsequent event of passing of the order by the respondent Board which has been challenged in writ petition no.1129/2006.

Consequently, this writ petition no.7101/2003 is dismissed as having become infructuous with liberty to the petitioner to agitate all the grounds raised in writ petition no.7101/2003 in writ petition no.1129/2006.

File of writ petition no.7101/2003 be kept tagged with file of writ petition no.1129/2006.

(PRAKASH TATIA), J.

S.Phophaliya